

RESOLUTION NO. 90-112

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LODI APPROVING AGREEMENTS
FOR FINANCING OF PLANNING AND
DEVELOPMENT ACTIVITIES

WHEREAS, the Commission of the Northern California Power Agency has approved Agreements for Financing and Planning of Development Activities for purchase of power from Northwest Resource, construction of Combined Cycle Project No. One, and purchase of power from Coal Resource and

WHEREAS, the City of Lodi wishes to enter into those agreements,

BE IT RESOLVED by the City Council of the City of Lodi, as follows:

Section 1. The form of "Agreement for Financing of Planning and Development Activities for Purchase of Power from Northwest Resource," attached to this Resolution as Exhibit "A" and presented to the Council at this meeting, is hereby approved.

Section 2. The form of "Agreement for Financing of Planning and Development Activities for Construction of Combined Cycle Project No. One," attached to this Resolution as Exhibit "B" and presented to the Council at this meeting, is hereby approved.

Section 3. The form of "Agreement for Financing of Planning and Development Activities for Purchase of Power from Coal Resource", attached to this Resolution as Exhibit "C" and presented to the Council at this meeting, is hereby approved.

PASSED AND ADOPTED by the Council of the City of Lodi this
1st day of August, 1990, by the following vote on roll
call:

AYES Council Members - Hinchman, Olson, Pinkerton,
Reid and Snider (Mayor)

NOES Council Members - None

ABSENT Council Members - None

John R. Snider
Mayor
John R. (Randy) Snider

ATTEST:

Alice M. Reimche
City Clerk
Alice M. Reimche

AGREEMENT
FOR
FINANCING OF PLANNING AND DEVELOPMENT ACTIVITIES FOR PURCHASE
OF POWER FROM NORTHWEST RESOURCE

This Agreement, dated as of August 1, 1990, by and between Northern California Power Agency, a joint powers agency of the State of California, hereinafter called "NCPA" and those of its members who execute this Agreement, hereinafter called "Project Members," witnesseth:

WHEREAS, NCPA's Resource Plan for 1990 through 2009 has identified the economic potential for a Northwest resource capable of supplying power starting within the approximate period of 1993 to 1994; and

WHEREAS, NCPA and the Project Members desire to pursue planning and development activities including the investigation of the cost and feasibility of purchasing such power from a Northwest resource, such as, by way of example, power in the amount of 50 megawatts from the Washington Water Power Company; and

WHEREAS, the cost of such planning and development activities of purchasing power from the resource (hereinafter referred to as the "Project") is estimated to be \$42,921; and

WHEREAS, the Project Members desire to enter into a second phase agreement pursuant to the Member Service Agreements dated February 12, 1981, or successor agreements, in order to formalize their understanding regarding sharing of the benefits and burdens associated with their participation in the Project;

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Obligation Formalized-Percentage Participation Collection and Documentation. Each Project Member hereby agrees to continue to pay or advance to NCPA, from its electric department revenues only, its percentage share of the costs authorized by Project Members in accordance with this Agreement in connection with its participation in the Project. Each Project Member further agrees that it will fix the rates and charges for services provided by its electric department so that it will at all times have

sufficient money in its electric department revenue funds to meet this obligation. The percentage participation of each NCPA member which has tentatively determined to be a Project Member is initially established as follows:

Alameda	11.000%
Healdsburg	1.800
Lodi	11.300
Lompoc	2.600
Palo Alto	22.600
Roseville	11.200
Turlock	36.000
Ukiah	3.000
Total	100.000%

The above participation percentages shall be revised proportionately if less than all of the above NCPA members become Project Members, and thereafter if and when any Project Member withdraws in whole or in part. Any Project Member wholly withdrawing shall thereupon cease to be a Project Member for all purposes except for purposes of section 4 of this Agreement.

Hereafter, NCPA shall demand from each and every Project Member its share of its agreed to financial commitment on a concurrent basis. Any part of such demand by NCPA which remains unpaid for sixty days after its billing date shall bear interest from such sixtieth day at the reference rate of the Bank of America NT&SA then in effect, plus two percent, computed on a daily basis percent until paid. Interest so earned shall not change any Project Member's participation percentage, and shall become a part of the working capital fund defined below.

The funds advanced according to this section 1 shall be used to establish a working capital fund if and when approved by the Project Members, and in an amount and subject to any limitations approved by the Project Members. Until a working capital fund is established by the Project Members, funds advanced according to this section 1 shall not be encumbered or expended.

Section 2. Limited Rights to Participate In Final Implementation and Financing.

(a) Discretion - Disposition of Project Capacity and Energy. In consideration of the payments provided for in section 1 of this Agreement each Project

Member who has not wholly withdrawn, or who is not then in default shall have an exclusive option to enter into a Third Phase Agreement (or a Power Purchase Contract) for all or a part of its participation percentage of rights to all Project capacity and energy for use by NCPA members pursuant to this Agreement.

(b) Increase in Purchases. A Project Member can, at the time of entering into the Third Phase Agreement, purchase more than its participation percentage of the Project if additional shares are available by reason of the nonparticipation in the Third Phase Agreement by one or more Project Members. Such excess shares shall be offered to those who do participate in the same proportion as their shares bear to the total shares of those who do participate. If Project Members so entitled do not wish to contract for all the excess shares, such remaining excess shall be disposed of as agreed to by the Project Members.

(c) Exercise and Effect of Taking Less Than Full Entitlement. The Project Members shall establish the terms and provisions of an agreement for rights to capacity and energy from the Project prior to the expiration of this Agreement, to be known as the Third Phase Agreement. The Project Members shall also establish the date by which the Third Phase Agreement must be executed by Project Members and delivered to NCPA if they are to participate in the Project. Failure to execute the Third Phase Agreement for any of its total participation share and to deliver it to NCPA by that date or 30 days after a Project Member's receipt, whichever is later, will be an irrevocable decision on the part of that Project Member not to participate in the Project. Execution and delivery of the Third Phase Agreement for less than its total participation percentage and delivery of that Project Member's executed agreement to NCPA by the date established or 30 days after the Project Member's receipt, whichever is later, will likewise be an irrevocable decision on the part of that Project Member not to participate in the Project in excess of the share set forth in its delivered agreement. Supplemental agreements or other agreements will be entered into for the excess or surplus Project shares. The procedure for processing supplemental agreements shall be consistent with those prescribed immediately above in this subsection (c) for rights to Project capacity and energy. Failure to return an executed agreement for any additional Project share within the prescribed period is an irrevocable decision not to purchase such additional share. The Project Member making any herein defined irrevocable decision not to participate in all of its share of the Project shall be foreclosed from utilizing, and shall be relieved of further burdens related to, the share which it has declined to purchase.

Section 3. Member Direction and Review. NCPA shall comply with all lawful directions of the Project Members with respect to this Agreement, while not stayed or nullified, to the fullest extent authorized by law. Actions of Project Members, including giving above directions to NCPA, will be taken only at meetings of authorized representatives of Project Members duly called and held pursuant to the Ralph M. Brown Act. Ordinarily, voting by representatives of Project Members will be on a one member/one vote basis, with a majority vote required for action; however, upon request of a Project Member representative, the voting on an issue will be by percentage participation with 65% or more favorable vote necessary to carry the action.

Any decision related to the Project taken by the favorable vote of representation of Project Members holding less than 65% of percentage participation can be reviewed and revised if a Project Member holding any participation percentage gives Notice of Intention to seek such review and revision to each other Project Member within 48 hours after receiving written notice of such action. If such Notice of Intention is so given, any action taken specified in the notice shall be nullified, unless the NCPA Commissioners of Project Members holding at least 65% of the total participation percentage then in effect vote in favor thereof at a regular or specially called meeting of Project Members. If the Notice of Intention concerned a failure to act, such action shall nevertheless be taken if NCPA Commissioners of Project Members holding at least 65% of the total Participation Percentage vote in favor thereof at a regular or specially called meeting of Project Members.

Section 4. Conditional Repayment to Members. All payments and advances made heretofore, and those hereafter made pursuant to section 1 of this Agreement, excluding interest paid on delinquent payments, shall be repaid to each of the entities making such payments and advances pursuant to this Agreement out of the proceeds of the first issuance of the Project bonds which can economically provide therefor, or as and when there are sufficient funds available from partial sale of bonds, if bonds, notes, or other evidences of indebtedness are issued to support the Project. Such reimbursements shall be made within 60 days following the sale of any Project bonds and shall include interest computed monthly at a rate equivalent to the end of the month reference rate of the Bank of America NT&SA. Any interest due under the third paragraph of section 1 of this Agreement and unpaid shall be deducted from the repayment. If NCPA determines to complete the Project, but is not successful in obtaining all necessary approvals and financing therefor, there shall be no reimbursement except out of unused Project funds

including those then in the working capital fund, along with all other receipts to which NCPA is entitled in connection with the Project.

Section 5. Term. This Agreement shall take effect as of August 20, 1990, but only if approved by NCPA members holding 85% of the initial percentage participations set out in section 1 of this Agreement, or upon such later date as may be determined by NCPA Members after an adjustment in the participation percentages to provide for an adequate subscription for the financial commitment required by section 6 of this Agreement. This Agreement shall be superseded by the Third Phase Agreement, except that section 4 of this Agreement shall remain in effect. Changes may be made in this section 5, except as to the continued effectiveness of section 4, in accordance with section 3 hereof.

Section 6. Financial Commitments. Each Project Member agrees to a total financial commitment for its respective percentage participation of a total of \$42,921 principal amount plus interest thereon, if any, including payments and advances heretofore made, as authorized and approved by the Project Members. From time to time as needs arise, representatives of the Project Members may, by a favorable vote as provided in section 3 of this Agreement, authorize an increase in NCPA's financial commitment which can be shown to support the completion of the Project but only after 30 days' written notice of such proposed increase has been given to all Project Members.

Section 7. Assignment.

(a) Notwithstanding any other provision of this Agreement, if NCPA requires funds to carry out the terms of this Agreement prior to the receipt of adequate funds from the Project Members, NCPA may, upon approval of the Project Members, assign its right to receive any payments under this Agreement to a bank or other financial institution to secure a borrowing by NCPA or in exchange for an amount of money equal to the then present value of those payments as determined by NCPA. Project Members hereby consent to such assignment, and upon notification in writing by NCPA, each such Project Member will make each such assigned payment directly to the assignee. The assignee shall not be liable to Project Members for the amounts as assigned, and NCPA shall use the proceeds of such borrowing or assignment for the purposes provided in this Agreement.

If an assignment is made under this section, then upon the failure of any Project Member to make any payment so assigned, the percentage participation of each non-defaulting Project Member shall be automatically increased for the term of the assignment pro rata with that of the other non-defaulting Project Members, and the

defaulting Project Member's Percentage Participation shall (but only for purposes of computing the respective Percentage Participation of the non-defaulting Project Members) be reduced correspondingly; provided that the sum of such increase for any non-defaulting Project Member shall not exceed without written consent of the non-defaulting Project Members an accumulated maximum of 25% of the non-defaulting Project Member's original Percentage Participation.

If the Project Member fails or refuses to pay any amounts due to NCPA, the fact that other Project Members increase their obligations to make such payments shall not relieve the defaulting Project Member of its liability for such payments and any Project Member increasing such obligation shall have a right of recovery from the defaulting Project Member to the extent of such respective increase.

In addition, NCPA may terminate the provisions of this Agreement insofar as they entitle the defaulting Project Member to its Percentage Participation of Project output.

(b) For the purposes of such assignment, NCPA may fix and schedule the total amount payable by each Project Member into any number of semi-annual payments, not less than four nor to exceed ten, and the dates on which such payments will be made, and each Project Member agrees to abide by such schedule. NCPA shall provide a reasonable opportunity for any Project Member to prepay its total obligation.

(c) After such an assignment is made, no Project Member may avoid the obligation so assigned by withdrawal pursuant to section 8 hereof or otherwise.

(d) If NCPA makes an assignment pursuant to this section, it may transfer any or all of its rights and duties to a nonprofit corporation formed to act on behalf of NCPA if the voting power of the members of such corporation is distributed in the same manner as that provided in sections 3 and 9 of this Agreement.

Section 8. Withdrawal From Further Participation. If at any time following the execution of this Agreement, there is an increase in NCPA's financial commitment pursuant to section 6, Project Members may partially withdraw, i.e., from participation in the increase, or may withdraw wholly from the Project. Such withdrawal shall be subject to honoring any commitments made by them or on their behalf pursuant to authorization of this Agreement. To withdraw, such Project Members shall give NCPA written notice of such withdrawal, in part or in whole, within thirty (30) days of the receipt of the notice by them of the increase.

Section 9. Voting Rights and Duration. A Project Member is participating for purposes of section 3 percentage voting until it completely withdraws, but a partial or complete withdrawal will result in a corresponding reduction in its percentage participation. When the Third Phase Agreement is executed, or revised, revised participation percentages shall be established by dividing the amount of Project share agreed to be purchased by each Project Member by the total amount of Project shares to be purchased by all Project Members. For voting purposes and for establishing a quorum in this Agreement and in the Third Phase Agreement, the 65% of percentage participation specified in sections 3 and 10 shall be reduced by the amount that the percentage participation of any Project Member exceeds 35%, but such 65% shall not be reduced below a majority in interest.

Section 10. Quorum Defined. The presence of either a majority of the Project Members, or of Project Members then having a combined participation percentage of at least 65% shall constitute a quorum for the purpose of action.

IN WITNESS WHEREOF, each Project Member has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed, and NCPA has authorized this Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA
POWER AGENCY

CITY OF ALAMEDA

By: _____

By: _____

CITY OF HEALDSBURG

CITY OF LODI

By: _____

By: John R. Snider
John R. (Randy) Snider, Mayor

By: _____

By: Alice M. Reimche
Alice M. Reimche, City Clerk

CITY OF LOMPOC

CITY OF PALO ALTO

By: _____

By: _____

By: _____

By: _____

CITY OF ROSEVILLE

By: _____

By: _____

TURLOCK IRRIGATION DISTRICT

By: _____

By: _____

CITY OF UKIAH

By: _____

By: _____

AGREEMENT
FOR
FINANCING OF PLANNING AND DEVELOPMENT ACTIVITIES FOR
CONSTRUCTION OF COMBINED CYCLE PROJECT NO. ONE

This Agreement, dated as of August 1, 1990, by and between Northern California Power Agency, a joint powers agency of the State of California, hereinafter called "NCPA" and those of its members who execute this Agreement, hereinafter called "Project Members," witnesseth:

WHEREAS, NCPA's Resource Plan for 1990 through 2009 has identified the economic potential for a combined cycle resource capable of an initial commercial operation date within the approximate period of 1993 to 1995; and

WHEREAS, NCPA and the Project Members desire to pursue planning and development activities, including the investigation of the cost and feasibility of installing such combined cycle resource, particularly a stand-alone unit such as, by way of example, an LM5000 or its equivalent in performance and economics; and

WHEREAS, the cost of such planning and development activities of installing such resource (hereinafter referred to as the "Project") is estimated to be \$547,689; and

WHEREAS, the Project Members desire to enter into a second phase agreement pursuant to the Member Service Agreements dated February 12, 1981, or successor agreements, in order to formalize their understanding regarding sharing of the benefits and burdens associated with their participation in the Project;

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Obligation Formalized-Percentage Participation Collection and Documentation. Each Project Member hereby agrees to continue to pay or advance to NCPA, from its electric department revenues only, its percentage share of the costs authorized by Project Members in accordance with this Agreement in connection with its participation in the Project. Each Project Member further agrees that it will fix the rates and charges for services provided by its electric department so that it will at all times have sufficient money in its electric department revenue funds to meet this obligation. The

percentage participation of each NCPA member which has tentatively determined to be a Project Member is initially established as follows:

Alameda	22.445%
Healdsburg	3.556
Lodi	24.222
Lompoc	5.333
Palo Alto	10.000
Roseville	<u>24.444</u>
Total	100.000%

The above participation percentages shall be revised proportionately if less than all of the above NCPA members become Project Members, and thereafter if and when any Project Member withdraws in whole or in part. Any Project Member wholly withdrawing shall thereupon cease to be a Project Member for all purposes except for purposes of section 4 of this Agreement.

Hereafter, NCPA shall demand from each and every Project Member its share of its agreed to financial commitment on a concurrent basis. Any part of such demand by NCPA which remains unpaid for sixty days after its billing date shall bear interest from such sixtieth day at the reference rate of the Bank of America NT&SA then in effect, plus two percent, computed on a daily basis percent until paid. Interest so earned shall not change any Project Member's participation percentage, and shall become a part of the working capital fund defined below.

The funds advanced according to this section 1 shall be used to establish a working capital fund if and when approved by the Project Members, and in an amount and subject to any limitations approved by the Project Members. Until a working capital fund is established by the Project Members, funds advanced according to this section 1 shall not be encumbered or expended.

Section 2. Limited Rights to Participate In Final Implementation and Financing.

(a) Discretion - Disposition of Project Capacity and Energy. In consideration of the payments provided for in section 1 of this Agreement each Project Member who has not wholly withdrawn, or who is not then in default shall have an exclusive option to enter into a Third Phase Agreement (or a Power Purchase Contract) for

all or a part of its participation percentage of rights to all Project capacity and energy for use by NCPA members pursuant to this Agreement.

(b) Increase in Purchases. A Project Member can, at the time of entering into the Third Phase Agreement, purchase more than its participation percentage of the Project if additional shares are available by reason of the nonparticipation in the Third Phase Agreement by one or more Project Members. Such excess shares shall be offered to those who do participate in the same proportion as their shares bear to the total shares of those who do participate. If Project Members so entitled do not wish to contract for all the excess shares, such remaining excess shall be disposed of as agreed to by the Project Members.

(c) Exercise and Effect of Taking Less Than Full Entitlement. The Project Members shall establish the terms and provisions of an agreement for rights to capacity and energy from the Project prior to the expiration of this Agreement, to be known as the Third Phase Agreement. The Project Members shall also establish the date by which the Third Phase Agreement must be executed by Project Members and delivered to NCPA if they are to participate in the Project. Failure to execute the Third Phase Agreement for any of its total participation share and to deliver it to NCPA by that date or 30 days after a Project Member's receipt, whichever is later, will be an irrevocable decision on the part of that Project Member not to participate in the Project. Execution and delivery of the Third Phase Agreement for less than its total participation percentage and delivery of that Project Member's executed agreement to NCPA by the date established or 30 days after the Project Member's receipt, whichever is later, will likewise be an irrevocable decision on the part of that Project Member not to participate in the Project in excess of the share set forth in its delivered agreement. Supplemental agreements or other agreements will be entered into for the excess or surplus Project shares. The procedure for processing supplemental agreements shall be consistent with those prescribed immediately above in this subsection (c) for rights to Project capacity and energy. Failure to return an executed agreement for any additional Project share within the prescribed period is an irrevocable decision not to purchase such additional share. The Project Member making any herein defined irrevocable decision not to participate in all of its share of the Project shall be foreclosed from utilizing, and shall be relieved of further burdens related to, the share which it has declined to purchase.

Section 3. Member Direction and Review. NCPA shall comply with all lawful directions of the Project Members with respect to this Agreement, while not stayed or

nullified, to the fullest extent authorized by law. Actions of Project Members, including giving above directions to NCPA, will be taken only at meetings of authorized representatives of Project Members duly called and held pursuant to the Ralph M. Brown Act. Ordinarily, voting by representatives of Project Members will be on a one member/one vote basis, with a majority vote required for action; however, upon request of a Project Member representative, the voting on an issue will be by percentage participation with 65% or more favorable vote necessary to carry the action.

Any decision related to the Project taken by the favorable vote of representation of Project Members holding less than 65% of percentage participation can be reviewed and revised if a Project Member holding any participation percentage gives Notice of Intention to seek such review and revision to each other Project Member within 48 hours after receiving written notice of such action. If such Notice of Intention is so given, any action taken specified in the notice shall be nullified, unless the NCPA Commissioners of Project Members holding at least 65% of the total participation percentage then in effect vote in favor thereof at a regular or specially called meeting of Project Members. If the Notice of Intention concerned a failure to act, such action shall nevertheless be taken if NCPA Commissioners of Project Members holding at least 65% of the total Participation Percentage vote in favor thereof at a regular or specially called meeting of Project Members.

Section 4. Conditional Repayment to Members. All payments and advances made heretofore, and those hereafter made pursuant to section 1 of this Agreement, excluding interest paid on delinquent payments, shall be repaid to each of the entities making such payments and advances pursuant to this Agreement out of the proceeds of the first issuance of the Project bonds which can economically provide therefor, or as and when there are sufficient funds available from partial sale of bonds, if bonds, notes, or other evidences of indebtedness are issued to support the Project. Such reimbursements shall be made within 60 days following the sale of any Project bonds and shall include interest computed monthly at a rate equivalent to the end of the month reference rate of the Bank of America NT&SA. Any interest due under the third paragraph of section 1 of this Agreement and unpaid shall be deducted from the repayment. If NCPA determines to complete the Project, but is not successful in obtaining all necessary approvals and financing therefor, there shall be no reimbursement except out of unused Project funds including those then in the working capital fund, along with all other receipts to which NCPA is entitled in connection with the Project.

Section 5. Term. This Agreement shall take effect as of August 20, 1990, but only if approved by NCPA members holding 85% of the initial percentage participations set out in section 1 of this Agreement, or upon such later date as may be determined by NCPA Members after an adjustment in the participation percentages to provide for an adequate subscription for the financial commitment required by section 6 of this Agreement. This Agreement shall be superseded by the Third Phase Agreement, except that section 4 of this Agreement shall remain in effect. Changes may be made in this section 5, except as to the continued effectiveness of section 4, in accordance with section 3 hereof.

Section 6. Financial Commitments. Each Project Member agrees to a total financial commitment for its respective percentage participation of a total of \$547,689 principal amount plus interest thereon, if any, including payments and advances heretofore made, as authorized and approved by the Project Members. From time to time as needs arise, representatives of the Project Members may, by a favorable vote as provided in section 3 of this Agreement, authorize an increase in NCPA's financial commitment which can be shown to support the completion of the Project but only after 30 days' written notice of such proposed increase has been given to all Project Members.

Section 7. Assignment.

(a) Notwithstanding any other provision of this Agreement, if NCPA requires funds to carry out the terms of this Agreement prior to the receipt of adequate funds from the Project Members, NCPA may, upon approval of the Project Members, assign its right to receive any payments under this Agreement to a bank or other financial institution to secure a borrowing by NCPA or in exchange for an amount of money equal to the then present value of those payments as determined by NCPA. Project Members hereby consent to such assignment, and upon notification in writing by NCPA, each such Project Member will make each such assigned payment directly to the assignee. The assignee shall not be liable to Project Members for the amounts as assigned, and NCPA shall use the proceeds of such borrowing or assignment for the purposes provided in this Agreement.

If an assignment is made under this section, then upon the failure of any Project Member to make any payment so assigned, the percentage participation of each non-defaulting Project Member shall be automatically increased for the term of the assignment pro rata with that of the other non-defaulting Project Members, and the defaulting Project Member's Percentage Participation shall (but only for purposes of computing the respective Percentage Participation of the non-defaulting Project Members)

be reduced correspondingly; provided that the sum of such increase for any non-defaulting Project Member shall not exceed without written consent of the non-defaulting Project Members an accumulated maximum of 25% of the non-defaulting Project Member's original Percentage Participation.

If the Project Member fails or refuses to pay any amounts due to NCPA, the fact that other Project Members increase their obligations to make such payments shall not relieve the defaulting Project Member of its liability for such payments and any Project Member increasing such obligation shall have a right of recovery from the defaulting Project Member to the extent of such respective increase.

In addition, NCPA may terminate the provisions of this Agreement insofar as they entitle the defaulting Project Member to its Percentage Participation of Project output.

(b) For the purposes of such assignment, NCPA may fix and schedule the total amount payable by each Project Member into any number of semi-annual payments, not less than four nor to exceed ten, and the dates on which such payments will be made, and each Project Member agrees to abide by such schedule. NCPA shall provide a reasonable opportunity for any Project Member to prepay its total obligation.

(c) After such an assignment is made, no Project Member may avoid the obligation so assigned by withdrawal pursuant to section 8 hereof or otherwise.

(d) If NCPA makes an assignment pursuant to this section, it may transfer any or all of its rights and duties to a nonprofit corporation formed to act on behalf of NCPA if the voting power of the members of such corporation is distributed in the same manner as that provided in sections 3 and 9 of this Agreement.

Section 8. Withdrawal From Further Participation. If at any time following the execution of this Agreement, there is an increase in NCPA's financial commitment pursuant to section 6, Project Members may partially withdraw, i.e., from participation in the increase, or may withdraw wholly from the Project. Such withdrawal shall be subject to honoring any commitments made by them or on their behalf pursuant to authorization of this Agreement. To withdraw, such Project Members shall give NCPA written notice of such withdrawal, in part or in whole, within thirty (30) days of the receipt of the notice by them of the increase.

Section 9. Voting Rights and Duration. A Project Member is participating for purposes of section 3 percentage voting until it completely withdraws, but a partial or complete withdrawal will result in a corresponding reduction in its percentage participation.

When the Third Phase Agreement is executed, or revised, revised participation percentages shall be established by dividing the amount of Project share agreed to be purchased by each Project Member by the total amount of Project shares to be purchased by all Project Members. For voting purposes and for establishing a quorum in this Agreement and in the Third Phase Agreement, the 65% of percentage participation specified in sections 3 and 10 shall be reduced by the amount that the percentage participation of any Project Member exceeds 35%, but such 65% shall not be reduced below a majority in interest.

Section 10. Quorum Defined. The presence of either a majority of the Project Members, or of Project Members then having a combined participation percentage of at least 65% shall constitute a quorum for the purpose of action.

IN WITNESS WHEREOF, each Project Member has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed, and NCPA has authorized this Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA
POWER AGENCY

CITY OF ALAMEDA

By: _____

By: _____

CITY OF HEALDSBURG

CITY OF LODI

By: _____

By: John R. Snider
John R. (Randy) Snider, Mayor
By: Alice M. Reimche
Alice M. Reimche

By: _____

CITY OF LOMPOC

CITY OF PALO ALTO

By: _____

By: _____

By: _____

By: _____

CITY OF ROSEVILLE

By: _____

By: _____

AGREEMENT
FOR
FINANCING OF PLANNING AND DEVELOPMENT ACTIVITIES FOR PURCHASE
OF POWER FROM COAL RESOURCE

This Agreement, dated as of August 1, 1990, by and between Northern California Power Agency, a joint powers agency of the State of California, hereinafter called "NCPA" and those of its members who execute this Agreement, hereinafter called "Project Members," witnesseth:

WHEREAS, NCPA's Resource Plan for 1990 through 2009 has identified the economic potential for a coal resource capable of an initial commercial operation date within the approximate period of 1993 to 1995; and

WHEREAS, NCPA and the Project Members desire to pursue planning and development activities, including the investigation of the cost and feasibility of installing such coal resource, particularly, by way of example, the Thousand Springs Project or its equivalent in performance and economics; and

WHEREAS, the cost of such planning and development activities for such resource (hereinafter referred to as the "Project") is estimated to be \$130,121; and

WHEREAS, the Project Members desire to enter into a second phase agreement pursuant to the Member Service Agreements dated February 12, 1981, or successor agreements, in order to formalize their understanding regarding sharing of the benefits and burdens associated with their participation in the Project;

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Obligation Formalized-Percentage Participation Collection and Documentation. Each Project Member hereby agrees to continue to pay or advance to NCPA, from its electric department revenues only, its percentage share of the costs authorized by Project Members in accordance with this Agreement in connection with its participation in the Project. Each Project Member further agrees that it will fix the rates and charges for services provided by its electric department so that it will at all times have sufficient money in its electric department revenue funds to meet this obligation. The

percentage participation of each NCPA member which has tentatively determined to be a Project Member is initially established as follows:

Alameda	14.400%
Healdsburg	2.400
Lodi	15.400
Lompoc	3.400
Roseville	15.600
Turlock	45.400
Ukiah	3.400
Total	100.000%

The above participation percentages shall be revised proportionately if less than all of the above NCPA members become Project Members, and thereafter if and when any Project Member withdraws in whole or in part. Any Project Member wholly withdrawing shall thereupon cease to be a Project Member for all purposes except for purposes of section 4 of this Agreement.

Hereafter, NCPA shall demand from each and every Project Member its share of its agreed to financial commitment on a concurrent basis. Any part of such demand by NCPA which remains unpaid for sixty days after its billing date shall bear interest from such sixtieth day at the reference rate of the Bank of America NT&SA then in effect, plus two percent, computed on a daily basis percent until paid. Interest so earned shall not change any Project Member's participation percentage, and shall become a part of the working capital fund defined below.

The funds advanced according to this section 1 shall be used to establish a working capital fund if and when approved by the Project Members, and in an amount and subject to any limitations approved by the Project Members. Until a working capital fund is established by the Project Members, funds advanced according to this section 1 shall not be encumbered or expended.

Section 2. Limited Rights to Participate In Final Implementation and Financing.

(a) Discretion - Disposition of Project Capacity and Energy. In consideration of the payments provided for in section 1 of this Agreement each Project Member who has not wholly withdrawn, or who is not then in default shall have an exclusive option to enter into a Third Phase Agreement (or a Power Purchase Contract) for

all or a part of its participation percentage of rights to all Project capacity and energy for use by NCPA members pursuant to this Agreement.

(b) Increase in Purchases. A Project Member can, at the time of entering into the Third Phase Agreement, purchase more than its participation percentage of the Project if additional shares are available by reason of the nonparticipation in the Third Phase Agreement by one or more Project Members. Such excess shares shall be offered to those who do participate in the same proportion as their shares bear to the total shares of those who do participate. If Project Members so entitled do not wish to contract for all the excess shares, such remaining excess shall be disposed of as agreed to by the Project Members.

(c) Exercise and Effect of Taking Less Than Full Entitlement. The Project Members shall establish the terms and provisions of an agreement for rights to capacity and energy from the Project prior to the expiration of this Agreement, to be known as the Third Phase Agreement. The Project Members shall also establish the date by which the Third Phase Agreement must be executed by Project Members and delivered to NCPA if they are to participate in the Project. Failure to execute the Third Phase Agreement for any of its total participation share and to deliver it to NCPA by that date or 30 days after a Project Member's receipt, whichever is later, will be an irrevocable decision on the part of that Project Member not to participate in the Project. Execution and delivery of the Third Phase Agreement for less than its total participation percentage and delivery of that Project Member's executed agreement to NCPA by the date established or 30 days after the Project Member's receipt, whichever is later, will likewise be an irrevocable decision on the part of that Project Member not to participate in the Project in excess of the share set forth in its delivered agreement. Supplemental agreements or other agreements will be entered into for the excess or surplus Project shares. The procedure for processing supplemental agreements shall be consistent with those prescribed immediately above in this subsection (c) for rights to Project capacity and energy. Failure to return an executed agreement for any additional Project share within the prescribed period is an irrevocable decision not to purchase such additional share. The Project Member making any herein defined irrevocable decision not to participate in all of its share of the Project shall be foreclosed from utilizing, and shall be relieved of further burdens related to, the share which it has declined to purchase.

Section 3. Member Direction and Review. NCPA shall comply with all lawful directions of the Project Members with respect to this Agreement, while not stayed or

nullified, to the fullest extent authorized by law. Actions of Project Members, including giving above directions to NCPA, will be taken only at meetings of authorized representatives of Project Members duly called and held pursuant to the Ralph M. Brown Act. Ordinarily, voting by representatives of Project Members will be on a one member/one vote basis, with a majority vote required for action; however, upon request of a Project Member representative, the voting on an issue will be by percentage participation with 65% or more favorable vote necessary to carry the action.

Any decision related to the Project taken by the favorable vote of representation of Project Members holding less than 65% of percentage participation can be reviewed and revised if a Project Member holding any participation percentage gives Notice of Intention to seek such review and revision to each other Project Member within 48 hours after receiving written notice of such action. If such Notice of Intention is so given, any action taken specified in the notice shall be nullified, unless the NCPA Commissioners of Project Members holding at least 65% of the total participation percentage then in effect vote in favor thereof at a regular or specially called meeting of Project Members. If the Notice of Intention concerned a failure to act, such action shall nevertheless be taken if NCPA Commissioners of Project Members holding at least 65% of the total Participation Percentage vote in favor thereof at a regular or specially called meeting of Project Members.

Section 4. Conditional Repayment to Members. All payments and advances made heretofore, and those hereafter made pursuant to section 1 of this Agreement, excluding interest paid on delinquent payments, shall be repaid to each of the entities making such payments and advances pursuant to this Agreement out of the proceeds of the first issuance of the Project bonds which can economically provide therefor, or as and when there are sufficient funds available from partial sale of bonds, if bonds, notes, or other evidences of indebtedness are issued to support the Project. Such reimbursements shall be made within 60 days following the sale of any Project bonds and shall include interest computed monthly at a rate equivalent to the end of the month reference rate of the Bank of America NT&SA. Any interest due under the third paragraph of section 1 of this Agreement and unpaid shall be deducted from the repayment. If NCPA determines to complete the Project, but is not successful in obtaining all necessary approvals and financing therefor, there shall be no reimbursement except out of unused Project funds including those then in the working capital fund, along with all other receipts to which NCPA is entitled in connection with the Project.

Section 5. Term. This Agreement shall take effect as of August 20, 1990, but only if approved by NCPA members holding 85% of the initial percentage participations set out in section 1 of this Agreement, or upon such later date as may be determined by NCPA Members after an adjustment in the participation percentages to provide for an adequate subscription for the financial commitment required by section 6 of this Agreement. This Agreement shall be superseded by the Third Phase Agreement, except that section 4 of this Agreement shall remain in effect. Changes may be made in this section 5, except as to the continued effectiveness of section 4, in accordance with section 3 hereof.

Section 6. Financial Commitments. Each Project Member agrees to a total financial commitment for its respective percentage participation of a total of \$130,121 principal amount plus interest thereon, if any, including payments and advances heretofore made, as authorized and approved by the Project Members. From time to time as needs arise, representatives of the Project Members may, by a favorable vote as provided in section 3 of this Agreement, authorize an increase in NCPA's financial commitment which can be shown to support the completion of the Project but only after 30 days' written notice of such proposed increase has been given to all Project Members.

Section 7. Assignment.

(a) Notwithstanding any other provision of this Agreement, if NCPA requires funds to carry out the terms of this Agreement prior to the receipt of adequate funds from the Project Members, NCPA may, upon approval of the Project Members, assign its right to receive any payments under this Agreement to a bank or other financial institution to secure a borrowing by NCPA or in exchange for an amount of money equal to the then present value of those payments as determined by NCPA. Project Members hereby consent to such assignment, and upon notification in writing by NCPA, each such Project Member will make each such assigned payment directly to the assignee. The assignee shall not be liable to Project Members for the amounts as assigned, and NCPA shall use the proceeds of such borrowing or assignment for the purposes provided in this Agreement.

If an assignment is made under this section, then upon the failure of any Project Member to make any payment so assigned, the percentage participation of each non-defaulting Project Member shall be automatically increased for the term of the assignment pro rata with that of the other non-defaulting Project Members, and the defaulting Project Member's Percentage Participation shall (but only for purposes of computing the respective Percentage Participation of the non-defaulting Project Members)

be reduced correspondingly; provided that the sum of such increase for any non-defaulting Project Member shall not exceed without written consent of the non-defaulting Project Members an accumulated maximum of 25% of the non-defaulting Project Member's original Percentage Participation.

If the Project Member fails or refuses to pay any amounts due to NCPA, the fact that other Project Members increase their obligations to make such payments shall not relieve the defaulting Project Member of its liability for such payments and any Project Member increasing such obligation shall have a right of recovery from the defaulting Project Member to the extent of such respective increase.

In addition, NCPA may terminate the provisions of this Agreement insofar as they entitle the defaulting Project Member to its Percentage Participation of Project output.

(b) For the purposes of such assignment, NCPA may fix and schedule the total amount payable by each Project Member into any number of semi-annual payments, not less than four nor to exceed ten, and the dates on which such payments will be made, and each Project Member agrees to abide by such schedule. NCPA shall provide a reasonable opportunity for any Project Member to prepay its total obligation.

(c) After such an assignment is made, no Project Member may avoid the obligation so assigned by withdrawal pursuant to section 8 hereof or otherwise.

(d) If NCPA makes an assignment pursuant to this section, it may transfer any or all of its rights and duties to a nonprofit corporation formed to act on behalf of NCPA if the voting power of the members of such corporation is distributed in the same manner as that provided in sections 3 and 9 of this Agreement.

Section 8. Withdrawal From Further Participation. If at any time following the execution of this Agreement, there is an increase in NCPA's financial commitment pursuant to section 6, Project Members may partially withdraw, i.e., from participation in the increase, or may withdraw wholly from the Project. Such withdrawal shall be subject to honoring any commitments made by them or on their behalf pursuant to authorization of this Agreement. To withdraw, such Project Members shall give NCPA written notice of such withdrawal, in part or in whole, within thirty (30) days of the receipt of the notice by them of the increase.

Section 9. Voting Rights and Duration. A Project Member is participating for purposes of section 3 percentage voting until it completely withdraws, but a partial or complete withdrawal will result in a corresponding reduction in its percentage participation.

When the Third Phase Agreement is executed, or revised, revised participation percentages shall be established by dividing the amount of Project share agreed to be purchased by each Project Member by the total amount of Project shares to be purchased by all Project Members. For voting purposes and for establishing a quorum in this Agreement and in the Third Phase Agreement, the 65% of percentage participation specified in sections 3 and 10 shall be reduced by the amount that the percentage participation of any Project Member exceeds 35%, but such 65% shall not be reduced below a majority in interest.

Section 10. Quorum Defined. The presence of either a majority of the Project Members, or of Project Members then having a combined participation percentage of at least 65% shall constitute a quorum for the purpose of action.

IN WITNESS WHEREOF, each Project Member has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed, and NCPA has authorized this Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA
POWER AGENCY

CITY OF ALAMEDA

By: _____

By: _____

CITY OF HEALDSBURG

CITY OF LODI

By: _____

By: John R. Snider
John R. (Randy) Snider, Mayor
By: Alice M. Reimche
Alice M. Reimche, City Clerk

By: _____

CITY OF LOMPOC

CITY OF ROSEVILLE

By: _____

By: _____

By: _____

By: _____

TURLOCK IRRIGATION DISTRICT

CITY OF UKIAH

By: _____

By: _____

By: _____

By: _____